

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

Todd I. Hoge, Jourdain H. St. Cyr,
James B. Gross I, Kenneth J. Brien,
Saul R. Bullhead, Edward G. Franco, and
Chad J. Rummel,

Plaintiffs,

vs.

Sheriff Pat Heinert, Captain Lisa Wicks,
Lt. Greg Bohrer, Sgt. Eric Glasser,
Cpl. Paul Hewitt, Tara Canright, Chris
Aman, and Burleigh County Detention
Center,

Defendants.

ORDER OF DISMISSAL

Case No. 1:09-cv-043

On July 31, 2009 and August 18, 2009, the Plaintiffs filed a pro se complaint pursuant to 42 U.S.C. § 1983, alleging violations of their civil rights while incarcerated at the Burleigh County Detention Center. See Docket Nos. 9 and 15. On August 18, 2009, Magistrate Judge Charles S. Miller, Jr. reviewed the complaint pursuant to 28 U.S.C. §§ 1915(d)(2) and 1915A and filed a Report and Recommendation. See Docket No. 16. Judge Miller recommended that the Plaintiffs be allowed to proceed with their MRSA-related claims, but that their claim for denial of access to legal material be denied without prejudice. On September 11, 2009, the Court adopted the Report and Recommendation in its entirety. See Docket No. 20.

On January 11, 2010, the Court ordered the Clerk's office to effectuate service of the summons and complaint upon the Defendants in accordance with Rule 4 of the Federal Rules of Civil Procedure. See Docket No. 21. On March 11, 2010, the Defendants filed an answer to the complaint. See Docket No. 41. On April 14, 2010, the Court ordered that each Plaintiff has until

May 3, 2010 to submit a proposed scheduling/discovery plan, and that failure to do so will result in a dismissal without prejudice. See Docket No. 43. None of the Plaintiffs has submitted a proposed scheduling/discovery plan. Accordingly, the Plaintiffs' claims are **DISMISSED WITHOUT PREJUDICE** for failure to comply with the Court's April 14, 2010 order.

IT IS SO ORDERED.

Dated this 19th day of May, 2010.

/s/ Daniel L. Hovland

Daniel L. Hovland, District Judge
United States District Court